

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JAMES D. ALLEN, aka LLORD J.P. ALLEN,

Plaintiff,

v.

RASHUAN Q. DEAN,

Defendant.

Case No. 1:21-cv-01150-JLT-EPG (PC)

ORDER DENYING PLAINTIFF'S MOTION
FOR DEFAULT JUDGMENT

ORDER DENYING PLAINTIFF'S MOTION
TO VACATE AND RESET SCHEDULING
ORDER

ORDER GRANTING PLAINTIFF
EXTENSION OF TIME TO COMPLY
WITH ORDER REQUIRING PARTIES TO
EXCHANGE DOCUMENTS

ORDER DIRECTING DEFENDANT TO
SERVE PLAINTIFF WITH COPY OF
ANSWER

(ECF Nos. 52 & 53)

James D. Allen ("Plaintiff") is a state prisoner proceeding *pro se* in this civil rights action filed pursuant to 42 U.S.C. § 1983.

On October 25, 2022, Plaintiff filed a motion for default judgment and a motion to vacate and reset the scheduling order. (ECF Nos. 53 & 52).

As to Plaintiff's motion for default judgment, Plaintiff asks the Court to enter default and default judgment because Defendant failed to file a responsive pleading in compliance with this Court's order, which required Defendant to file his responsive pleading within seven days of September 16, 2022 (ECF No. 45). Plaintiff also appears to ask the Court to sanction Defendant

1 for failing to timely file his responsive pleading. This motion will be denied because Defendant
2 filed his answer on September 22, 2022 (ECF No. 48), and thus complied with this Court's order.
3 As it appears that Plaintiff did not receive a copy of the answer, the Court will direct Defendant to
4 serve a copy of the answer on Plaintiff.

5 As to Plaintiff's motion to vacate and reset the scheduling order, Plaintiff asks the Court to
6 "temporarily" vacate the scheduling order and the order requiring the parties to exchange
7 documents until Plaintiff is released from Administrative Segregation ("Ad-Seg"). Plaintiff states
8 that he has been retained in Ad-Seg since September 3, 2022. Plaintiff has been separated from
9 his personal property, which contains relevant information and research materials. Additionally,
10 he is not allowed to attend the law library or utilize ASU computers because they are broken, and
11 research via inmate assistance or paging services via mail are insufficient. Plaintiff has been
12 placed up for transfer, and is also appealing the conditions oppressed upon him, but he is unaware
13 of how long the process will take.

14 The Court will deny Plaintiff's motion to vacate and reset the scheduling order. Plaintiff
15 has not sufficiently shown that all deadlines in this case should be vacated. For example, Plaintiff
16 has until February 17, 2023, to file motions to compel, and he has not explained why he will be
17 unable to meet this deadline, which is over three months away.

18 However, the Court finds to good cause to extend Plaintiff's deadline to provide the
19 documents required by the Court's order requiring parties to exchange documents. If Plaintiff is
20 unable to meet this extended deadline, or any other deadline(s), Plaintiff may file a motion for an
21 extension of time. If he does, he should identify the particular deadline(s) he needs extended and
22 explain why he needs those particular deadlines extended.

23 The Court notes that its order regarding exchange of documents only applies to documents
24 in the parties' possession, custody, or control. (ECF No. 47, p. 2). If Plaintiff does not have
25 access to documents at this time, he does not need to produce them at this time. If he receives
26 those documents at a later time, he must provide them within thirty days of receiving them.

27 Accordingly, IT IS ORDERED that:

- 28 1. Plaintiff's motion for default judgment is denied;

2. Plaintiff's motion to vacate and reset the scheduling order is denied;
3. Plaintiff has sixty days from the date of service of this order to serve opposing counsel with the documents identified in the order requiring parties to exchange documents, to the extent he has them in his possession, custody, or control (ECF No. 47). If Plaintiff does not have access to documents at this time, he does not need to produce them at this time. If he receives those documents at a later time, he must provide them within thirty days of receiving them;
4. No other deadlines are extended at this time; and
5. Defendant is directed to serve Plaintiff with a copy of Defendant's answer (ECF No. 48).

IT IS SO ORDERED.

Dated: **October 27, 2022**

/s/ Eric P. Gray
UNITED STATES MAGISTRATE JUDGE